have some bearing on the matter. As I have stated above the respondent is an advocate and solicitor of the Supreme Court. He cannot be heard now to say that he was not aware of the remedy which was open to him if he had any reason to complain about the order made on 3rd September, 1962. The Rules of the Supreme Court are meant to be complied with and if a person goes to sleep and does not take appropriate measures within a reasonable period he cannot expect any indulgence from the Court.

On the merits themselves I did not think that the respondent had made out any case. It is clear that the applicant in these proceedings is an insurance company and that as such it is expressly excluded from the definition of "moneylender" under the Moneylenders Ordinance, 1961. Quite apart from the questions raised under the Moneylenders Ordinance, 1951, which in my opinion are *prima facie* not sustainable, the respondent has not alleged that the sum of $225,000 was not lent to him on the date of execution of the charge. I therefore dismiss the application with costs.

Application of chargor-respondent dismissed.

Solicitors: *K. L. Devaser & Co.; Lovelace & Hastings.*

Re CHUA HO ANN

[O.C.J. (Buttrose J.) March 29, 1963]

[Singapore — Originating Motion No. 13 of 1962]

Administrative Law — Citizenship — Reference to Committee of Inquiry under Singapore Citizenship Ordinance — Order of Prohibition directed at Committee — Whether Committee acts in judicial or ministerial capacity — Whether prohibition will lie.

Constitutional law — Deprivation of citizenship — Order of prohibition against Minister — Functions of Minister under Singapore Citizenship Ordinance — Whether judicial or administrative.

Singapore Citizenship Ordinance, 1957, s.22 — Deprivation of citizenship — Reference to Committee of Inquiry — Whether prohibition will lie against Committee and Minister — Functions of Committee and Minister under the Ordinance.

The prohibition does not lie against the Committee of Inquiry established under section 22 of the Singapore Citizenship Ordinance, 1957, because the Committee merely conducts factual investigations on behalf of the Minister in an advisory capacity and the duties of the Committee are not in any relevant sense judicial or quasi-judicial but purely ministerial.

As the functions of the Minister in carrying out the provisions of the Singapore Citizenship Ordinance and in making his final decision to deprive a person of his citizenship are fundamentally administrative, an order of prohibition does not lie against the Minister. The Minister is answerable to the legislature but his actions cannot be controlled by the Courts.

Cases referred to:—

(1) *Rex* v. *Electricity Commissioners* [1924] 1 K.B. 171.

(2) *Rex* v. *Manchester Legal Aid Committee* [1952] 1 All. E.R. 481.

(3) *Rex* v. *London County Council* [1931] 2 K.B. 233.

(4) *In re Ong Eng Guan* [1959] M.L.J. 92.

(5) *Reg* v. *Camborne Justices* [1955] 1 Q.B. 41.

(6) *Lim Lian Geok* v. *The Minister of the Interior* [1962] M.L.J. 159.

ORIGINATING MOTION.

David Marshall for the applicant.

Tan Boon Teik (Sr. Crown Counsel) for the respondent.

Cur. Adv. Vult.

Buttrose J.: This is an application for an Order of Prohibition directed to:—

(a) the Minister for Home Affairs prohibiting him from taking any further step in pursuance of the Notice of the Permanent Secretary to the Ministry of Home Affairs of the 19th December, 1960, to deprive one Chua Ho Ann (hereinafter referred to as 'the applicant') of his citizenship under the provisions of section 22(3) of the Singapore Citizenship Ordinance, 1957 (No. 35 of 1957) (hereinafter referred to as 'the Ordinance'); and

(b) the Committee of Inquiry constituted under the provisions of section 22 of the Ordinance prohibiting it from proceeding with the Inquiry into the proposal to deprive the applicant of his citizenship.

Section 22 so far as it is material to the present proceedings is as follows:—

"(1) A citizen of Singapore who is a citizen by registration or by naturalization shall cease to be such a citizen if he is deprived of his citizenship by an order of the Minister made in accordance with the provisions of this section. — (The applicant is a citizen by registration).

(3) The Minister may, by order, deprive any such citizen of his citizenship if he is satisfied that that citizen —

.....

(d) has at any time after registration been engaged ..... in any criminal activities which are prejudicial to the interests of public safety, peace or good order.

(5) The Minister shall not deprive a person of citizenship under this section unless he is satisfied that it is not conducive to the public good that that person should continue to be a citizen of Singapore.

(6) Before making an order under this section, the Minister shall give the person against whom the order is proposed to be made notice in writing informing him of the *ground* on which the order is proposed to be made and of his right to have the case referred to a committee of inquiry under this section.

(7) If any person to whom such notice is given applies within such time as may be prescribed to have the case referred to a committee of inquiry, the Minister shall, and in any other case may, refer the case to a committee of inquiry consisting of a Chairman, who shall be a person qualified to be appointed a judge, and two other members appointed by the Minister in that behalf.

(8) The committee of inquiry shall, on such reference, hold an inquiry in such manner as may be prescribed and submit a report to the Minister and the

Minister shall have regard to such report in making an order under this section."

The first matter which arises to be considered is whether the order of prohibition will issue either to the Minister who is entrusted by the Legislature with wide and unlimited discretion with regard to the deprivation of citizenship or to the committee of inquiry making a report to him thereon. Is the Minister or the committee acting in a judicial or quasi-judicial capacity? If they are then prohibition will lie. If on the other hand they are acting in an administrative or executive capacity prohibition is inappropriate and the Court will not interfere.

A great many authorities were cited to me in argument by Mr. Marshall who appeared on behalf of the applicant and I have considered them at some length, but it would not, in my view, be of assistance to examine them in this judgment. The foundation of the Court's jurisdiction by way of prohibition has been fully canvassed in recent years and individual instances are not really of very much help except to illustrate the general principle and the modern approach to it of extending the order to statutory bodies exercising quasi-judicial powers affecting the rights of private persons.

The principle itself is conveniently stated by Atkin L.J. in *Rex* v. *Electricity Commissioners* [1] at p. 205 "..... the operation of the writs has extended to control the proceedings of bodies which do not claim to be, and would not be recognized as, Courts of Justice. Wherever any body of persons have legal authority to determine questions affecting the rights of subjects, and having the duty to act judicially, act in excess of their legal authority they are subject to the controlling jurisdiction of the King's Bench Division exercised in these writs."

In *Rex* v. *Manchester Legal Aid Committee* [2] this passage is quoted with approval by Parker J. and in *Rex* v. *London County Council* [3] Scrutton L.J. said:

"It is not necessary that the tribunal should be a Court in the sense in which this Court is a Court; it is enough if it is exercising, after hearing evidence, judicial functions in the sense that it has to decide on evidence between a proposal and an opposition; and it is not necessary to be strictly a Court; if it is a tribunal which has to decide rights after hearing evidence and opposition, it is amenable to the writ."

I propose to deal first with the committee of inquiry. What is its position and what are its functions? Under the provisions of the Ordinance, before making the order, the Minister must give the person against whom he proposes to make the order (in this case the applicant) notice in writing informing him of the grounds on which the order is proposed to be made and of his right to have the case referred to a committee of inquiry. If the person to whom such notice is given applies to have the matter referred to a committee of inquiry the Minister shall and in any other case may so refer it. On such reference the committee shall hold an inquiry in such manner as may be prescribed and submit a report to the Minister who is merely required to have regard to it in making his order. Under the Singapore Citizenship Rules, 1958, the committee is required to inquire into the grounds upon which the Minister proposes to make the order and the reason advanced by the person concerned why such order should not be made and shall submit to the Minister their findings as to the facts of the case. The Chairman of the committee, who shall be a person qualified to be appointed a judge, shall if so required by the Minister furnish in writing his opinion on any question of law which may be involved in the case or which may be submitted to him by the Minister in connection therewith.

The committee is a fact finding committee. Its function is to inquire into and investigate the facts and convey information thereon to the Minister. It is not required to make recommendations. It makes no decision on the result of its findings which have no legal or binding force, affect no rights and impose neither liabilities nor obligations.

The Minister is only required to have regard to the committee's report in making his order but having done so it is open to him to refrain from acting on any advice tendered in it. It is to the Minister and the Minister alone that the decision to deprive a person of his citizenship is entrusted. The committee of inquiry is merely conducting a factual investigation on behalf of the Minister in an advisory capacity.

The committee's duties are not, in my opinion in any relevant sense judicial or quasi-judicial but purely ministerial. To use a phrase in one of the cases cited in argument the committee is but an adjunct of the executive power.

It was urged upon me that the committee had all the trappings of a judicial body or court in enforcing the attendance of witnesses and examining them upon oath, affirmation or otherwise and in the issue of a commission or a request to examine witnesses abroad and in compelling the production of documents. But these are merely procedural matters designed to facilitate the carrying out by the committee of its duties without which its usefulness would be gravely impaired. They are, moreover, matters common to all committees of inquiry including commissions of inquiry under the Inquiry Commissions Ordinance (Cap. 52) against whom prohibition has never been held to lie. See *In re Ong Eng Guan* [4].

It is worthy of note on the other hand that the committee may act upon any information available whether or not it is given on oath or would be admitted in a Court. I am of opinion that prohibition does not lie in the case of the committee of inquiry.

I now turn to deal with the position of the Minister under the Ordinance. The question I have to decide is as to the construction of this particular measure dealing with a special subject matter, namely, the acquisition and loss of Singapore citizenship.

Under the Ordinance the Minister may withdraw citizenship status on certain specified grounds provided he is satisfied that it is not conducive to the public good that the person concerned should continue to be a citizen of Singapore. He has a wide and unfettered discretion entrusted to him. The functions of the Minister in carrying out the provisions of the Ordinance and in making his final decision are, in my opinion, fundamentally administrative. He may satisfy himself by any available means at his disposal and his conclusions may be influenced by his conception as to what public policy demands. It may well be that he will have to defend or justify his views in the Legislative Assembly but he cannot be called upon to do so in the Courts. By interposing, at the instance of the individual concerned or at the discretion of the Minister, a committee of inquiry between the opinion of the Minister when it is first formed and any action by him on that opinion an additional safeguard is provided by the Legislature to ensure the fullest possible investigation resulting perhaps in the Minister's *prima facie* view being shown to be mistaken. In my judgment, therefore, prohibition will not lie against the Minister who is answerable to the Legislature, but his actions cannot be controlled by the Courts.

This is sufficient to dispose of the matter but as I understand there is to be an appeal, it is desirable that I should express my views briefly on the other matters argued before me. Assuming prohibition to lie it was contended that both the Minister and the committee of inquiry were biassed. On the question of bias the test is "is there a real likelihood of bias." See *Reg.* v. *Camborne Justices* [5].

The grounds relied on in support of the allegation of bias against the Minister are political animosity against the applicant by the People's Action Party, a statement by Mr. Lee Kuan Yew that when he came into power he would get the applicant into trouble and that some two months after the present People's Action Party Government came into power the applicant was in fact arrested and detained under the Criminal Law (Temporary Provisions) Ordinance, 1955 (No. 26 of 1955).

It may be that I, as did Rose C.J. in the case of *In re Ong Eng Guan, supra,* view these highly charged political matters with too detached an eye, but I have come to the conclusion that there is no real likelihood of bias on the part of the Minister for Home Affairs in connection with the matters to which I have referred.

It was further argued that the Minister had foreclosed his mind against the applicant and that there could and would be no fair consideration of the report of the committee of inquiry. There is, in my view, no substance in this contention. The view expressed by the Minister in his notice to the applicant under section 22(6) of the Ordinance and reiterated and amplified in his affidavits is merely his *prima facie* view. If he proposes to make the order he must be satisfied, *prima facie,* in accordance with the provisions of section 22(3)(d) and (5) of the Ordinance. In his notice the Minister is merely following the wording of the Ordinance. To say that he has closed his mind and prejudged the matter finally is to take a far too narrow and artificial view of the position.

No ground of any substance, in my view, was advanced in support of the allegation that the committee of inquiry was biassed.

I am satisfied that the notice to the applicant sufficiently sets out the ground on which the order is proposed to be made. See *Lim Lian Geok* v. *The Minister of the Interior* [6].

Furthermore, if the Legislature had intended criminal activities to be synonymous with a conviction of a criminal offence it would have been perfectly simple to have said so.

There is in my view no substance in the other points raised by the applicant.

For the reasons given earlier in this judgment prohibition will not lie in the circumstances of this case and the application must be dismissed with costs.

Application dismissed.